No. 87-5565

IN THE

Supreme Court of the United States

OCTOBER TERM, 1987

CHERLYN CLARK,

Petitioner,

v.

GENE JETER,

Respondent.

On Writ of Certiorari to the Superior Court of Pennsylvania

BRIEF AMICI CURIAE FOR THE WOMEN'S LEGAL DEFENSE FUND; THE CHILDREN'S DEFENSE FUND;

[Additional Amici Listed on Inside Cover]

Of Counsel:
JUDITH L. LICHTMAN
DONNA R. LENHOFF
DIANE DODSON
WOMEN'S LEGAL DEFENSE FUND
2000 P Street, N.W., Suite 400
Washington, D.C. 20036
(202) 887-0364

LESLYE E. ORLOFF
1736 Columbia Road, N.W.
Washington, D.C. 20009
(202) 387-4848

JAMES D. WEILL
CHILDREN'S DEFENSE FUND
122 C Street, N.W.
Washington, D.C. 20001
(202) 628-8787

ERWIN N. GRISWOLD
(Counsel of Record)
SUSAN Z. HALLER
JONES, DAY, REAVIS & POGUE
Metropolitan Square
1450 G Street, N.W.
Washington, D.C. 20005-2088
(202) 879-3939
Counsel for the Amici

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

DELCO. C.A.P.S. INC.;
EQUAL RIGHTS ADVOCATES;
THE NATIONAL CHILD SUPPORT
ENFORCEMENT ASSOCIATION;
THE NATIONAL ORGANIZATION
FOR THE ENFORCEMENT OF CHILD SUPPORT;
THE NATIONAL ORGANIZATION FOR WOMEN;
NOW LEGAL DEFENSE AND EDUCATION FUND;
THE NATIONAL WOMEN'S LAW CENTER;
NEED FOR SUPPORT ENFORCEMENT;
SINGLE PARENTS UNITED 'N' KIDS;
THE SECOND HUSBANDS ALLIANCE
FOR FAIR TREATMENT;
SUPPORT;
AND THE WOMEN'S LAW PROJECT
IN SUPPORT OF PETITIONER

QUESTIONS PRESENTED

1. Does a six-year statute of limitation for actions brought to establish paternity in support actions for children born out of wedlock violate the equal protection guarantee of the Fourteenth Amendment of the United States Constitution?

2. Does a six-year statute of limitation for actions brought to establish paternity in support actions for children born out of wedlock deprive such children of the due process guaranteed by the Fourteenth Amendment of the United States Constitution?

3. Is Pennsylvania's current eighteen-year paternity statute of limitation, which has been construed to be not retroactive to cases pending on appeal or previously barred by the now repealed six-year statute, inconsistent with the language and intent of the federal Child Support Enforcement Amendments?

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BRIEF AMICI CURIAE IN SUPPORT OF PETITIONER

INTEREST OF THE AMICI CURIAE [1]

The *amici* filing this brief represent a cross-section of organizations concerned about the protection and enforcement of children's rights to obtain the necessary support to which they are entitled. These groups, including professional organizations and national groups as well as grass-roots organizations, work through various

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[1] The parties have consented to the filing of this brief, and their letters of consent have been filed with the Clerk of the Court pursuant to Rule 36.2.

means including education, research, and advocacy to promote, *inter alia*, fairness between women and men in the area of child support and to improve laws and procedures for the establishment of paternity and the enforcement of child support.[2] The *amici* are: (1) The Women's Legal Defense Fund; (2) Children's Defense Fund; (3) Delco. C.A.P.S. Inc.; (4) Equal Rights Advocates; (5) The National Child Support Enforcement Association; (6) The National Organization for the Enforcement of Child Support; (7) The National Organization for Women; (8) The NOW Legal Defense and Education Fund; (9) The National Women's Law Center; (10) Need for Support Enforcement; (11) Single Parents United 'N' Kids; (12) The Second Husbands Alliance For Fair Treatment; (13) SUPPORT; and (14) The Women's Law Project.

Amici's specific interest in this case is based on the federal issues raised by the Pennsylvania court's interpretation of Pennsylvania law and its application of that law to a class of children seeking child support under applicable Commonwealth statutes. The ruling of the Pennsylvania Superior Court not only deprives these children of due process and equal protection of the laws guaranteed by the Fourteenth Amendment of the United States Constitution but also violates a federal statute designed to assist children in obtaining support.

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[2] Separate statements of interest for each *amicus* are included in an Appendix hereto.

SUMMARY OF ARGUMENT

I. Pursuant to the criteria established by *Pickett v. Brown*, 462 U.S. 1 (1983), and other cases, any statute of limitations applied to child support-related paternity actions must satisfy two criteria in order to survive equal protection scrutiny. First, the statute must provide a person who has an interest in the non-marital child with a reasonable opportunity to assert the paternity claim. A six-year statute of limitations does not provide such a reasonable opportunity since disabilities and complications—physical, emotional and economic—following the birth of a non-marital child continue and actually increase for many years following birth as the single mother tries to satisfy her child support obligation without contributions from the father.

The second criterion applied in *Pickett v. Brown* is that the statute of limitations governing a support-related paternity action must be substantially related to a valid state interest. In the instant case, the Pennsylvania court's assertion of a valid state interest in the prevention of stale and fraudulent claims is undermined by the Commonwealth's disparate statute of limitations treatment of similar paternity-related civil actions such as inheritance proceedings and actions by a putative father to establish paternity, by significant advances in blood and genetic testing, and by the fact that the six-year statute of limitations itself has been repealed and replaced with a statute extending the limitations period to eighteen years.

II. Application of the six-year statute of limitations also deprives an affected child of his or her right to receive paternal support, without the due process guaranteed by the Fourteenth Amendment. Under Pennsylvania law all children have the right to be supported by both parents at least through their minority, and this right is a constitutionally protected property interest.

Application of the six-year statute of limitations effectively deprives a child born out of wedlock of any opportunity to seek judicial enforcement of that right on his or her own behalf, and makes the enforcement of the child's right totally dependent upon action taken by the parent or guardian—action which for a number of reasons the parent or guardian may be unwilling or unable to take. Therefore, application of the six-year statute of limitations cannot be made consistent with the requirements of due process.

III. Finally, Pennsylvania's current eighteen-year statute of limitations for paternity suits, as construed as not applying to such suits brought on behalf of children who were six years of age or older on the statute's effective date, fails to comply with the Child Support Enforcement Amendments. Those Amendments require that *all* children, without qualification, be afforded an eighteen-year opportunity to prove paternity and thus secure support from both parents. Pennsylvania's election to participate in the program for Aid to Families with Dependent Children obligates the Commonwealth to comply with the federal statutes and regulations governing such programs. The Pennsylvania eighteen-year statute of limitations, as construed by the Pennsylvania Superior Court, does not comply with the federal Child Support Enforcement Amendments, and therefore is invalid by reason of the Supremacy Clause of Article VI of the United States Constitution.

ARGUMENT

I. APPLICATION OF PENNSYLVANIA'S PREVIOUS SIX-YEAR STATUTE OF LIMITATIONS FOR PATERNITY ACTIONS VIOLATES THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT IN THAT IT DEPRIVES NON-MARITAL CHILDREN OF AN ADEQUATE OPPORTUNITY TO OBTAIN SUPPORT AND IS NOT SUBSTANTIALLY RELATED TO A LEGITIMATE STATE INTEREST.

Under this Court's decisions in *Mills v. Habluetzel*, 456 U.S. 91 (1982), and *Pickett v. Brown*, 462 U.S. 1 (1983), restrictions imposed by state law on paternity actions brought on behalf of children born out of wedlock will survive equal protection scrutiny only if the following two criteria are met: (1) the period permitted by the state for obtaining support is sufficiently long so that those with an interest in non-marital children are given a reasonable opportunity to file suit; and (2) the time limitation placed on that opportunity is substantially related to the state's interest in preventing the litigation of stale and fraudulent claims.[3]

Pennsylvania's prior six-year statute of limitations in support-related paternity actions[4] fails to satisfy either of these mandatory criteria, and thus its application to

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[3] *Pickett v. Brown*, 462 U.S. at 12-13.

[4] 42 Pa. Cons. Stat. Ann. § 6704(e) (Purdon 1982), *repealed by* Act of Oct. 30, 1985, Pub. L. 264, No. 66 § 3 (Purdon Supp. 1987) provides:

> (e) *Limitation of actions.*—All actions to establish the paternity of a child born out of wedlock brought under this section must be commenced within six years of the birth of the child, except where the reputed father shall have voluntarily contributed to the support of the child or shall have acknowledged in writing his paternity, in which case an action may be commenced at any time within two years of any such contribution or acknowledgment by the reputed father.

a non-marital child deprives the child of the equal protection guaranteed under the Fourteenth Amendment.

A. A Six-Year Statute of Limitations Fails to Provide a Reasonable Opportunity to File a Paternity Action and Thus Unreasonably Deprives a Child of His or Her Right to Parental Support.

In *Mills v. Habluetzel* and *Pickett v. Brown*, this Court struck down one- and two-year statutes of limitation applied to child-support related paternity actions finding, *inter alia*, that such restrictive statutes fail to provide an adequate opportunity to file a paternity claim. In a concurring opinion in *Mills*, Justice O'Connor, joined by three other members of this Court, suggested that "longer periods of limitation for paternity suits also may be unconstitutional." *Mills v. Habluetzel*, 456 U.S. at 106.[5]

"[P]ractical obstacles to filing suit within one year of birth could as easily exist several years after the birth of the illegitimate child." *Mills v. Habluetzel*, 456 U.S. at 105 (O'Connor, J., concurring). Indeed, the emotional and financial strain which accompanies and immediately follows childbirth may not only remain constant but increase during subsequent years of child rearing.[6] As

[5] *Accord, State ex rel. Adult & Family Serv. Div. v. Bradley*, 58 Or. App. 663, 650 P.2d 91 (1982), *aff'd*, 295 Ore. 216, 666 P.2d 249 (1983) (striking down a six-year statute of limitations); *Alexander v. Commonwealth*, 708 S.W.2d 102 (Ky. App. 1986) (four-year statute); *Smith v. Cornelius*, 665 S.W.2d 182 (Tex. App. 1984) (same); *Moore v. McNamara*, 40 Conn. Sup. 6, 478 A.2d 634 (1984) (three-year statute).

[6] "The mother may experience financial difficulties caused not only by the child's birth, but also by a loss of income attributable to the need to care for the child." *Pickett v. Brown*, 462 U.S. at 12. *Accord, State ex rel. Adult & Family Serv. Div. v. Bradley*, 58 Or. App. at 668-69, 650 P.2d at 94; *Callison v. Callison*, 687 P.2d 106, 109 (Okla. 1984); *District of Columbia ex rel. W.J.D. v. E.M.*, 467 A.2d 457, 463 (D.C. App. 1983); *Jude v. Morrissey*, 117 Ill. App. 3d 782, 783, 454 N.E.2d 24, 25 (1983).

children grow older, they become an ever-increasing financial burden, the severity of which may be appreciated fully by a single mother only after a six-year statute of limitations has expired.[7]

Similarly, although the emotional stress surrounding the child's birth will eventually subside, continuing tension may characterize the relationship between the mother and putative father. Mothers hoping to effect a reconciliation, or those fearing abuse, may be deterred from filing paternity suits for fear of incurring the wrath of the putative father.[8] If the father is making sporadic income payments, single mothers may be lulled into a false sense of security subsequently shattered when the payments cease and the father disappears.[9]

Other pressures incidental to the administration of public welfare programs can contribute to the mother's

[7] At six years of age a child enters school, and the mother typically incurs increased expenses such as educational materials, clothes and doctor visits. *See Moore v. McNamara*, 478 A.2d at 637 (mother may be able to shoulder burden until child is five or ten years old but if she loses job, will be foreclosed by limitation from establishing paternity); *District of Columbia ex rel. W.J.D. v. E.M.*, 467 A.2d 457 (D.C. App. 1983) (same).

[8] *State ex rel. Adult & Family Serv. Div. v. Bradley*, 58 Or. App. at 669, 650 P.2d at 95 (mother might still feel an attachment to the father; mother might not want to take the risk that bringing suit will cause father to cut off communication with child); *District of Columbia ex rel. W.J.D. v. E.M.*, 467 A.2d 457, 463 (D.C. App. 1983) (ongoing harmonious relationship as well as the hope of obtaining voluntary cooperation or desire to avoid retribution may make legal action unlikely).

[9] In such cases, "an action may be commenced at any time within two years of any such contribution or acknowledgment by the reputed father." 42 Pa. Cons. Stat. Ann. § 6704(e) (Purdon 1982). Such a short time limitation is unrealistic in many circumstances for many of the same reasons that a limitations period of two years from birth is unrealistic. *See Pickett v. Brown*, 462 U.S. at 12-13 (financial difficulty from loss of income, continuing affection for child's father, desire to avoid family and community disapproval).

uncertainty and confusion. In the instant case, following Petitioner's application for assistance to the Pennsylvania Department of Public Welfare, the case worker neglected to inform her that she was required to file a separate paternity claim. By the time another case worker discovered the error, Petitioner was barred from further action. Given the Petitioner's lack of education about these procedures—and the bureaucratic backlog typical of many welfare programs—it is unrealistic to believe that six years provided reasonable opportunity to establish paternity.[10]

B. A Six-Year Statute of Limitations Is Not Substantially Related to Pennsylvania's Interest in Preventing the Litigation of Stale and Fraudulent Claims.

The second equal protection criterion stated by this Court requires that a statute of limitations in a support-related paternity action be substantially related to a valid state interest—namely, the prevention of stale and fraudulent claims. *Pickett v. Brown*, 462 U.S. at 13. The state's underlying concern is with those problems of proof posed by stale evidence. A state's claim of substantial relation is undermined by a showing of disparate state treatment of similar claims. *Id.* at 14-15.

For example, this Court in *Pickett v. Brown* noted the contradiction between Tennessee's minority tolling provision and its support-related paternity statute of limitations. It pointed out that:

> Many civil actions are fraught with problems of proof, but [the state] has chosen to overlook these problems in most instances in favor of protecting the interests of minors. In paternity and child support actions brought on behalf of certain illegitimate children, however, the State instead has chosen to focus on the problems of proof and to impose on these suits a short limitations period.

462 U.S. at 16.[11]

In Pennsylvania, as in Tennessee, a minority tolling statute provides that civil actions which otherwise may be brought by a child but for its minority status are tolled throughout the period of minority.[12] It is therefore inconsistent to assert that, in the case of support-related paternity actions governed by the six-year statute of limitations, problems of proof are too intractable to be left to the trier of fact.[13]

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[10] *Cf. District of Columbia ex rel. W.J.D. v. E.M.*, 467 A.2d 457, 464 (D.C. App. 1983) (volume of public assistance related support claims frequently prevents the government from acting with sufficient promptness to avoid the statutory bar).

[11] In their concurring opinions in *Mills v. Habluetzel*, 456 U.S. at 104-06, Justices O'Connor and Powell both found it "significant" that paternity suits were one of the few causes of action in Texas not tolled during the plaintiff's minority, implicitly suggesting that such a situation may be among the vestiges of the irrational discrimination against non-marital children struck down by the Court in numerous decisions over the last twenty years.

[12] The tolling provision in 42 Pa. Cons. Stat. Ann. § 5533(b) (Purdon Supp. 1987), adopted in May 1984, provides as follows:

> (b) Infancy. If an individual entitled to bring a civil action is an unemancipated minor at the time the cause of action accrues, the period of minority shall not be deemed a portion of the time period within which the action must be commenced. Such person shall have the same time for commencing an action after attaining majority as is allowed to others by the provisions of this subchapter. As used in this subsection the term "minor" shall mean any individual who has net yet attained the age of 18.

[13] Prior to adoption of this tolling provision in 1984, Pennsylvania provided for the tolling of statutes of limitation during minority only in limited circumstances. Thus, the Pennsylvania Supreme Court in upholding its six-year statute of limitation for paternity actions concluded that "in Pennsylvania, paternity actions are treated no differently from the vast majority of actions brought on behalf of a child." *Astemborski v. Susmarski*, 502 Pa. 409, 416-17 n.3, 466

Similarly, the fact that Pennsylvania imposes no statutory limitations period on fathers seeking to establish paternity [14] undermines the assertion that Pennsylvania's six-year statute is substantially related to the Commonwealth's interest in preventing stale and fraudulent claims. Even more surprisingly, the Commonwealth allows paternity actions to be brought by offspring of any age pursuant to inheritance proceedings.[15] Such proceedings may occur many years after the child's birth and will often occur when the father is no longer present to contest paternity.[16] Indeed, problems of proof increase over time in the case of inheritance proceedings. However, notwithstanding the possibility that stale evidence will be introduced in such proceedings, or that fraudulent claims will be filed once the father is deceased, Pennsylvania does not prohibit inheritance-related paternity suits, but allows the trier of fact to decide on the admissibility of evidence. Finally, the Pennsylvania legislature's conscious choice to enact the current eighteen-year statute of limitations for paternity actions, 23 Pa. Cons. Stat. Ann. § 4343(b), deals the fatal blow to any claim of legitimate state interest in maintaining the six-year limitations period.

A.2d 1018, 1021 n.3 (1983). Pennsylvania's subsequently-enacted minority tolling statute undermines the continuing validity of that conclusion.

[14] *See In Re Mengel*, 287 Pa. Super. 186, 429 A.2d 1162 (1981); *Commonwealth ex rel. Goldman v. Goldman*, 199 Pa. Super. 274, 184 A.2d 351 (1962).

[15] 20 Pa. Cons. Stat. Ann. § 2107(c)(3) (Purdon Supp. 1987). The relevant portion of the statute reads as follows without any reference to a statute of limitations:

> (c) Child of Father.—For purpose of descent by, from and through a person born out of wedlock, he shall be considered the child of his father when the identity of the father has been determined in any one of the following ways:
>
> . . .
>
> (3) If there is clear and convincing evidence that the man was the father of the child, which may include a prior court determination of paternity.

[16] Although Pennsylvania's clear and convincing evidentiary standard in inheritance claims is more strict than the preponderance of the evidence standard applied to support-related paternity actions, the evidentiary problems posed by stale evidence do not disappear under either standard. Thus, *amici* do not advocate that the clear and convincing standard can or should be applied to support-related paternity actions. *See Rivera v. Minnich*, 107 S. Ct. 3001 (1987) (upholding constitutionality of Pennsylvania's statute requiring proof by a preponderance of the evidence in support-related paternity actions).

In addition, the State's valid interest in preventing stale and fraudulent claims may be adequately served by scientific developments in the field of paternity testing. Increasingly sophisticated blood tests, such as the Human Leukocyte Antigen (HLA) white blood cell test, and a number of other genetic typing tests, have radically changed the evidentiary ground rules in cases of disputed parentage.[17] *See Rivera v. Minnich*, 107 S. Ct. 3001, 3008 (1987) (Brennan, J., dissenting) (noting that modern blood-grouping tests, including HLA tests, can provide an "extremely reliable means of determining paternity"); *Pickett v. Brown*, 462 U.S. at 17 (suggesting that "advances in blood testing render more attenuated the relationship between a statute of limitations and the State's interest in preventing the prosecution of stale or fraudulent paternity claims"). Before the HLA test was developed, blood tests typically were admissible only to exclude an alleged father from that group of males who could have fathered a child. With the development of HLA testing, blood tests now can be used with great accuracy to establish paternity.[18] Pennsylvania has rec-

[17] Kolko, *Admissibility of HLA Tests to Determine Paternity*, 9 Fam. L. Rep. (BNA) 4009 (1983).

[18] Kolko, *Admissibility of HLA Tests to Determine Paternity*, 9 Fam. L. Rep. (BNA) 4009 (1983). *See also* Castillo, *New Use of*

ognized that HLA testing can be used reliably to calculate the probability that a putative father is the actual father of a child. *Turek v. Hardy*, 312 Pa. Super. 158, 160-64, 458 A.2d 562, 563-65 (1983).

Developments in HLA and genetic testing did not go unnoticed by Congress when the Child Support Enforcement Amendments of 1984, Pub. L. No. 98-378, 98 Stat. 1305 (1984), were adopted. According to the House Report:

> Relatively short statutes of limitations were enacted in the past in order to prevent stale claims and to protect a man from having to defend himself against a paternity action brought years after the child's birth when witnesses may have disappeared and memories may have become faulty. Recent progress in developing highly specific tests for genetic markers now permits the exclusion of over 99 percent of those wrongly accused of paternity regardless of the age of the child. *These advances in scientific paternity testing eliminate the rationale for placing arbitrary time limitations on the establishment of paternity for a child and therefore the obligation to support that child.*

H.R. Rep. No. 527, 98th Cong., 1st Sess. at 38 (1983) (emphasis added).

Finally, the state's interest in the prevention of stale and fraudulent claims is undercut by countervailing state interests in ensuring that justice is done by satisfying genuine claims for child support, *Mills v. Habluetzel*, 456 U.S. at 103 (O'Connor, J., concurring), and by reducing the state's welfare burden by securing child

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Blood Tests is Decisive in Paternity Suits, N.Y. Times, June 2, 1981, at A1, col. 1; Shroud, Sussman & Gilsa, *Blood Grouping Tests for Paternity and Nonpaternity*, 1981-1 N.J. St. J. Med. 343 (1981) (HLA in conjunction with other blood tests can lead to statistical probability of paternity approaching 100 percent). *See generally* Johnson, *DNA 'Fingerprinting' Tests Becoming a Factor in Courts*, N.Y. Times, Feb. 7, 1988, at 1, col. 1.

support from fathers otherwise obligated to provide such support. *Id.*

II. APPLICATION OF PENNSYLVANIA'S PREVIOUS SIX-YEAR STATUTE OF LIMITATIONS FOR PATERNITY ACTIONS DEPRIVES A NON-MARITAL CHILD OF DUE PROCESS.

The Fourteenth Amendment of the United States Constitution prohibits a state from depriving any person of liberty or property without due process of law. Determining whether a state has acted to deprive a person of due process requires a two step analysis. First, it must be shown that the interest affected by state action is a liberty or property interest cognizable as such under the Fourteenth Amendment. *Board of Regents v. Roth*, 408 U.S. 564 (1972). Second, it must be shown that the person has been deprived of his or her liberty or property interest without "due" process. *Mathews v. Eldridge*, 424 U.S. 319 (1976).

A. A Non-Marital Child's Right to Parental Support Is a Constitutionally Protected Property Interest.

Where an unconstitutional deprivation of property is alleged, this Court has required a showing that a property interest is actually conferred. *Board of Regents v. Roth*, 408 U.S. 564 (1972). "To have a property interest . . . a person clearly must have more than . . . a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it." 408 U.S. at 577. The protected property interest is not created by the Fourteenth Amendment. Rather, it is created and its dimensions defined "by existing rules or understandings that stem from an independent source such as state law . . . ." *Id.*

All children in Pennsylvania have a right to support, enforceable against both parents, throughout their minority. *See Costello v. Le Noir*, 462 Pa. 36, 40, 337 A.2d

866, 868 (1975); *Conway v. Dana*, 456 Pa. 536, 538, 318 A.2d 324, 325 (1974); 23 Pa. Cons. Stat. Ann. § 4321(2), (3) (Purdon Supp. 1987). Increasingly, the child's right to receive support has been regarded as a property right. *See DeSantis v. Yaw*, 290 Pa. Super. 535, 540, 434 A.2d 1273, 1275 (1981). Moreover, a child born out of wedlock has a right to receive support from his or her parents equivalent to the right of support enjoyed by children born of married parents. *See, e.g., Gomez v. Perez*, 409 U.S. 535 (1973); *Commonwealth v. Rebovich*, 267 Pa. Super. 254, 258, 406 A.2d 791, 793 (1979). Thus, a child in Pennsylvania has "more than a unilateral expectation" of support. *Board of Regents v. Roth*, 408 U.S. 564. Rather, the child's support right is an entitlement created by state law, and protected by the Fourteenth Amendment.

B. Pennsylvania's Previous Six-Year Statute of Limitations Does Not Provide Due Process Protection for the Child's Right to Parental Support.

Once a protected property interest is established, inquiry proceeds to determine what process is due to the property claimant before he or she may be constitutionally deprived of the interest. *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). Determination of what process is due requires a balancing of three factors, including (1) the private interest affected by official action; (2) the risk of erroneous deprivation through procedures used and the probable value of additional or substitute procedures; and (3) the government's interest, including the fiscal or administrative burdens imposed by additional or substitute procedures. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

When determining what process is due, it is not sufficient to show that the state has provided some procedure and that that procedure was followed in the case at hand.

Thus, although a state legislature may create an entitlement pursuant to statute, the legislature cannot prescribe procedures for enforcing the right so created which do not meet due process standards. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 432 (1982). As this Court has declared:

> The point is straightforward: the Due Process Clause provides that certain substantive rights—life, liberty, and property—cannot be deprived except pursuant to constitutionally adequate procedures. . . . "While the legislature may elect not to confer a property interest . . . it may not constitutionally authorize the deprivation of such an interest, once conferred, without appropriate procedural safeguards."

Cleveland Board of Education v. Loudermill, 470 U.S. 532, 541 (1985) (quoting *Arnett v. Kennedy*, 416 U.S. 134, 167 (1974) (Powell, J., concurring in part and concurring in result in part)).

Applying the balancing test developed in *Mathews v. Eldridge*, it is clear, first, that the child's right to support from both parents throughout his minority is a significant interest, recognized as such by the state. Moreover, the child's physical and emotional well-being may be affected directly by the father's failure to provide needed support, particularly if, as is commonly the case, the child must then be supported at public expense.[19] The putative father's countervailing interest in

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[19] *See* 130 Cong. Rec. S9589 (Aug. 1, 1984) (statement of Sen. Moynihan):

> There is a strong link between female-headed households, poverty, welfare recipiency and child support. The Census Bureau reports that 19 percent of all families with children are headed by women—and 12.5 million children under age 8 live in female-headed households; 59 percent of the black poverty population lived in female-headed families in 1980. Between 1970 and 1981 the number of these households increased over 100 percent. Poverty rates among women heading households are much

being free of the risk of stale or fraudulent paternity claims is substantially weakened by the factors previously discussed and, in any case, does not rise to the level of importance of the child's interest.

Second, there is a substantial risk that the child will be erroneously deprived of his support right under existing procedures. The child's right to support can be lost if someone fails timely to act on his behalf, without regard to whether a putative father has been identified who has the ability and the continuing obligation to support the child.

Third, and finally, the fiscal and administrative burdens imposed on the state by allowing paternity suits to be brought by or on behalf of the child beyond the six-year period cannot outweigh the importance of the child's interest and the risk of its deprivation.[20] Indeed, any additional costs to the state which might be incurred by reason of a more crowded court docket resulting from a longer limitations period may very well be offset by the

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higher than for male heads of households and husband-wife couples; 52 percent of all children in female-headed families had incomes below the poverty line, compared with 11 percent of children living in married couple families. Lack of child support from the absent parent, which occurs in over 50 percent of all cases where child support is due, is a compelling explanation for the preponderence [sic] of poverty in single-parent female-headed households and the substantial numbers of such families who become part of the welfare system.

Accord, 130 Cong. Rec. H9980 (Nov. 16, 1983) (statement of Rep. Schroeder); 130 Cong. Rec. S4809 (Apr. 25, 1984) (statement of Sen. D'Amato) ("Almost 90 percent of all child welfare recipients owe their welfare eligibility to the failure of parents to pay child support."); *id.* at S4811 (statement of Sen. Bradley).

[20] As discussed below, the statute of limitations in Pennsylvania already has been extended to eighteen years for all children not yet six years of age in January, 1986. The increase in expense attributable to cases such as Petitioner's is unlikely to be great and will abate over time.

reduction in the state's welfare burden resulting from compelling fathers to satisfy their support obligation.[21]

III. PENNSYLVANIA'S CURRENT EIGHTEEN-YEAR STATUTE OF LIMITATIONS FOR PATERNITY ACTIONS, AS CONSTRUED BY THE SUPERIOR COURT OF PENNSYLVANIA, IS IN CONFLICT WITH THE FEDERAL CHILD SUPPORT ENFORCEMENT AMENDMENTS.

A. The Federal Child Support Enforcement Amendments Require That a State Have in Place Procedures Which Permit the Establishment of the Paternity of Any Child at Least Until the Child's Eighteenth Birthday.

Congress enacted the 1984 Child Support Enforcement Amendments ("Amendments")[22] to improve the effectiveness of already existing child support programs and "to assure that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance."[23] The Amend-

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[21] *See* 130 Cong. Rec. S9589 (Aug. 1, 1984) (statement of Sen. Moynihan):

Let us consider one more illustration of the pervasiveness and complexity of the situation regarding the enforcement of child support obligations. For all women with incomes below the poverty line, only 60 percent received some amount of child support payment, and then the average annual payment received was just $1,440. In other words, the custodial parent received just $120 a month an [sic] average from the absent parent to support their child. If each family with no father present receiving AFDC in December 1982 had received just that $1,400 average annual payment, the savings in welfare payments would have been close to $5 billion, rather than $800 million.

[22] Pub. L. No. 98-378, 98 Stat. 1305 (1984) (codified at 42 U.S.C. §§ 651 *et seq.*).

[23] 130 Cong. Rec. H9974 (Nov. 16, 1983) (remarks of Rep. Rostenkowski). *See also* 130 Cong. Rec. S4802-03 (Apr. 25, 1984) (remarks of Sen. Dole).

ments require that, to remain in compliance with the program for Aid to Families with Dependent Children ("AFDC"), Title IV, Part A of the Social Security Act, 42 U.S.C. §§ 601 *et seq.* (1982), each state must adopt "[p]rocedures which permit the establishment of the paternity of any child at any time prior to such child's eighteenth birthday." 42 U.S.C. § 666(a)(5) (Supp. III 1985). By its plain language, this provision requires states to permit paternity actions at *any* time before a child reaches age eighteen. It provides no exclusion for claims which already would have been barred by lesser statutes of limitation.[24] The critical point of the Amendments, as Representative Roukema eloquently put it, was to place "the Federal Government firmly on record that child support is not a voluntary commitment, but a legal as well as moral obligation." 130 Cong. Rec. H9982 (Nov. 16, 1983).

Senator Dole, echoing the concerns of a number of his Senate and House colleagues, pointed out that

> Every year the parents of 1.2 million children are divorced and another 700,000 children are born out of wedlock. Incredibly, half of the children born this year [1984] are expected to live in single parent families before age 18. This disturbing trend has led to a rapid increase in the number of child support and paternity cases . . . .

[24] This Court has long held that statutes of limitations are procedural, rather than substantive, rights. *See Chase Securities Corp. v. Donaldson*, 325 U.S. 304, 311-12 (1945) ("[A] state legislature, consistently with the Fourteenth Amendment, may repeal or extend a statute of limitations, even after right of action is barred thereby, restore to the plaintiff his remedy, and divest the defendant of the statutory bar."). Therefore, Congress' requirement that the longer limitations period be made available to *all* children suffers from no constitutional infirmity. *See also International Union of Electrical, Radio & Machine Workers v. Robbins & Meyers, Inc.*, 429 U.S. 229, 243 (1976).

130 Cong. Rec. S4802 (Apr. 25, 1984).[25] Congress recognized that many single women and their children were already, or would become, public charges unless effective legislation were enacted to compel fathers, especially, to meet their support obligations.[26]

Restrictive state statutes of limitations in paternity actions were seen as stumbling blocks to the effectiveness of such legislation. As the House Ways and Means Committee report noted, "if a State's applicable statute of limitation does not permit establishment of paternity past the child's second, sixth or other birthday, it will be impossible ever to establish support orders on behalf of children past these ages and therefore impossible to obtain support for them." Therefore, the Amendments unambiguously required that:

> procedures under applicable State paternity laws must permit the establishment of an individual's paternity for *any* child *at least* until the child's eighteenth birthday. . . . States could eliminate statutes of limitation for establishing paternity altogether if they wished.

H.R. Rep. No. 527, 98th Cong., 1st Sess. 1, at 38 (1983) (emphasis added). By requiring compliance with this provision by all states sharing in federal funding for the AFDC program, Congress intended to "assure that *all* children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance." 130 Cong. Rec. H9974 (Nov. 16, 1983) (statement of Rep. Rostenkowski) (emphasis added).[27]

[25] *See also id.* at S4811 (statement of Sen. Bradley); 130 Cong. Rec. at S9585 (Aug. 1, 1984) (Sen. Long); 130 Cong. Rec. H9974 (Nov. 16, 1983) (Rep. Conable); *id.* at H9978 (Rep. Biaggi); *id.* at H9980 (Rep. Schroeder).

[26] 130 Cong. Rec. at S9589 (Aug. 1, 1984) (statement of Sen. Moynihan).

[27] States which failed by a specified date to adopt mandatory procedures—including the eighteen-year statute of limitations—

Indeed, the intent of Congress to provide relief to all children, without restriction, was so evident that the United States Department of Health and Human Services ("HHS"), in adopting federal regulations implementing the Amendments, stated that elaboration on the eighteen-year statute requirement was not necessary "[s]ince it is clear that cases previously considered to be closed because of the child's age will now have to be reopened and services provided." [28] 50 Fed. Reg. 19608, 19631 (1985).

B. Pennsylvania's Eighteen-Year Statute of Limitations, as Construed, Is in Conflict With the Federal Child Support Enforcement Amendments.

On October 30, 1985, the Pennsylvania legislature enacted, as Congress had mandated, a new eighteen-year statute of limitations for paternity suits, which provides that "[a]n action or proceeding under this chapter to establish the paternity of a child born out of wedlock

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would lose federal child support enforcement funds and a significant share of federal AFDC funds. 42 U.S.C. §§ 603(h), 655(a) (Supp. III 1985). It is, of course, established that the federal government may prescribe conditions for state participation in federally-funded programs. *See, e.g., King v. Smith*, 392 U.S. 309 (1968).

[28] As the federal agency charged with enforcing the Child Support Enforcement Amendments, the position of HHS on this issue is entitled to substantial deference. *See Connecticut Dept. of Income Maintenance v. Heckler*, 471 U.S. 524 (1985); *Blum v. Bacon*, 457 U.S. 132, 141 (1982).

In that regard, the Family Welfare Reform Act of 1987 (H.R. 1720), currently pending in Congress, would, among other things, "clarify that the authority to establish paternity until the child is 18, included in the 1984 amendments, applies to every child . . . including those for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State." H.R. Rep. No. 100-159, 100th Cong., 1st Sess. at 72 (1987).

must be commenced within 18 years of the date of birth of the child." [29] Section 4343(b) was part of a package of support program reforms designed to bring Pennsylvania into compliance with the federal Amendments and thereby prevent Pennsylvania from losing federal reimbursement funds provided for the support programs.[30] A prepared statement by Pennsylvania State Senator Greenleaf which was read into the record at the time of passage of the reform package emphasized that the legislation had been passed for "federal money and to better provide for our families." Pennsylvania Legislature Journal-Senate, October 9, 1985, at 1099.

In light of the clear language of Congress in requiring states to "permit the establishment of the paternity of *any* child *at any time* prior to such child's eighteenth birthday," 42 U.S.C. § 666(a)(5) (emphasis added), and in light of Congress' stated intent to compel all fathers to meet their support obligations, it follows that, in order to comply with the requirements of the federal Amendments, the eighteen-year statute of limitation must be applicable as well to paternity actions brought by or on behalf of children who were older than six years of age when the eighteen-year statute was enacted. If the statute cannot be so applied, it operates to withhold the benefits of the Pennsylvania statute—and thus the federal statute—from all such non-marital children. Thus, Pennsylvania will not have met the requirements of the

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[29] 23 Pa. Cons. Stat. Ann. § 4343(b) (Purdon Supp. 1987). The statute of limitations previously in effect, 42 Pa. Cons. Stat. Ann. § 6704(e) (Purdon 1982), was repealed.

[30] That the federal Amendments, and specifically 42 U.S.C. § 666(a)(5), were the "motivating factor for passage of § 4343(b)" was specifically recognized by the Pennsylvania Superior Court in *Paulussen v. Herion*, 359 Pa. Super. 520, 524, 519 A.2d 473, 475 (1986), *appeal denied*, 530 A.2d 868 (Pa. 1987).

federal Amendments—that *all* children be permitted to establish paternity at any time throughout their minority—until 1996.[31]

The Pennsylvania Superior Court, in this case and other cases, has uniformly construed the eighteen-year statute of limitation as being inapplicable to paternity suits brought by or on behalf of children where such suits, as of the effective date of that statute, were barred by the prior six-year statute of limitation. *Clark v. Jeter*, 358 Pa. Super. 550, 554, 518 A.2d 276, 278 (1986), *appeal denied*, 527 A.2d 533 (Pa. 1987), *cert. granted*, 56 U.S.L.W. 3459 (1988). *See Nichols v. Horn*, 363 Pa. Super. 301, 305, 525 A.2d 1242, 1244 (1987); *Paulussen v. Herion*, 359 Pa. Super. at 524, 519 A.2d at 475.[32]

Section 4343(b), as thus construed, fails to comply with the Amendments, and thwarts clear Congressional intent to benefit "all children" and to remove bars to valid paternity claims.

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[31] The federal program was intended to be in effect in all states by 1986. Pub. L. 98-378 § 3(g)(1), (3).

[32] In refusing to give effect to the eighteen-year statute of limitations in this case, the Pennsylvania Superior Court cited the Pennsylvania statutory presumption against retroactive construction, 1 Pa. Cons. Stat. Ann. § 1926 (Purdon Supp. 1987), as well as the Pennsylvania legislature's failure to make express provision for retroactive effect in the language of the new limitations provision. *Clark v. Jeter*, 358 Pa. Super. 550, 553, 518 A.2d 276, 278 (1986). Although the court appeared to concede that a "clear and manifest" intent could also be found in a statute's legislative history, the court found no such legislative history here—thus completely failing to recognize the essential link between the enactment of the new limitations period and the federal Amendments. By ignoring the federal Amendments, it misconstrued the Pennsylvania legislature's manifest intent in enacting the eighteen-year limitation period.

C. Pennsylvania's Eighteen-Year Statute of Limitations, As Construed, Violates the Supremacy Clause of the Constitution.

States are not obligated to participate in the federal AFDC program. Once a state chooses to do so, however, it is obliged to conform to the legislative and regulatory requirements of that program. *See Townsend v. Swank*, 404 U.S. 282, 286 (1971); *King v. Smith*, 392 U.S. 309, 316-17 (1968). A participating state's statute that conflicts with the legislative and regulatory requirements of the federal AFDC program, in the absence of clear Congressional authorization for any deviation, is invalid under the Supremacy Clause of the United States Constitution. *See Blum v. Bacon*, 457 U.S. 132, 138, 145-46 (1982); *Townsend v. Swank*, 404 U.S. at 286; *King v. Smith*, 392 U.S. at 333 n.34. Here, section 666(a)(5) is set forth in mandatory terms: "each State *must* have in effect laws requiring the use of the following procedures . . . ." (emphasis added).[33] Section 4343(b), as construed, conflicts with that mandatory provision and the limitation resulting from that construction is therefore invalid.

Moreover, a state statute also is invalid under the Supremacy Clause if it denies rights granted by federal law,[34] or if it obstructs the full effectiveness of the federal law.[35] *See Colorado Anti-Discrimination Commission v. Continental Air Lines, Inc.*, 372 U.S. 714, 722 (1963). Thus, in *King v. Smith*, 392 U.S. 309 (1968), this Court found that an Alabama regulation violated the

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[33] The treatment of section 666(a)(5) can be contrasted with that of sections 666(a)(3), (4), (6), and (7), where the states are given some discretion as to whether to apply those procedures in a given case. 42 U.S.C. § 666(a).

[34] *See, e.g., United Mine Workers v. Arkansas Oak Flooring Co.*, 351 U.S. 62, 75 (1956).

[35] *See, e.g., Hill v. Florida ex rel. Watson*, 325 U.S. 538, 542 (1945).

Supremacy Clause by excluding from AFDC eligibility certain children eligible for benefits under federal standards. *Id.* at 332-33. Similarly, in *Townsend v. Swank*, 404 U.S. 282 (1971), the Supremacy Clause was held to invalidate an Illinois statute and regulation under which children between the ages of 18 and 20 who were attending high school or vocational school qualified for AFDC benefits, but children of the same age attending a college or university did not. *Id.* at 285.

The current Pennsylvania statute of limitations for paternity suits, as construed and applied by the Pennsylvania courts, clearly obstructs the full effectiveness of the federal Amendments and frustrates the intent of Congress, in enacting the Amendments, to provide aid to *all* children needing help. 130 Cong. Rec. H9974 (Nov. 16, 1983) (statement of Rep. Rostenkowski). Under Pennsylvania law, as construed below, all non-marital children who were six years old or older on the statute's effective date are prevented from ever bringing suit to establish the paternity of, and thus obtain support from, their putative fathers. The Pennsylvania statute thus deprives Petitioner's child and many other Pennsylvania children of the benefits of the federal Child Support Enforcement Amendments, and obstructs the full effectiveness of the AFDC program as expressed in the federal Amendments. It is therefore invalid under the Supremacy Clause of the United States Constitution.

CONCLUSION

Despite the mandate of the federal statute, Pennsylvania's statute of limitations for paternity actions, as construed by the Superior Court, leaves a class of children—those at least six years of age in January, 1986—forever barred from bringing actions to secure their right to child support. For the reasons stated above, neither that statute nor the previous six-year statute of limitations can operate to bar the Petitioner's suit here. The judgment should below be reversed.

Respectfully submitted,

Of Counsel:
JUDITH L. LICHTMAN
DONNA R. LENHOFF
DIANE DODSON
WOMEN'S LEGAL DEFENSE FUND
2000 P Street, N.W., Suite 400
Washington, D.C. 20036
(202) 887-0364

LESLYE E. ORLOFF
1736 Columbia Road, N.W.
Washington, D.C. 20009
(202) 387-4848

JAMES D. WEILL
CHILDREN'S DEFENSE FUND
122 C Street, N.W.
Washington, D.C. 20001
(202) 628-8787

ERWIN N. GRISWOLD
(Counsel of Record)
SUSAN Z. HALLER
JONES, DAY, REAVIS & POGUE
Metropolitan Square
1450 G Street, N.W.
Washington, D.C. 20005-2088
(202) 879-3939
Counsel for the Amici

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APPENDIX

APPENDIX

The Women's Legal Defense Fund ("WLDF") is a tax-exempt organization which represents women and men challenging barriers to sexual equality. Because of the high rate of poverty among single women and their children, WLDF is particularly concerned with legal issues relating to, and engages in education and advocacy designed to promote and protect, the rights of such individuals. In particular, WLDF has instituted a National Project to Improve Child Support Enforcement to ensure that women and men share equally in the financial obligations of child support, and that women and children do not suffer from inadequate child support enforcement. WLDF regularly represents the interests of single women and their children, and other individuals, before the courts and the United States Congress. Such representation constitutes an important aspect of WLDF's activities and includes participation as amicus curiae in significant cases before this Court.

The Children's Defense Fund ("CDF") is a national public charity representing and providing advocacy on behalf of America's children, especially low-income, minority, and handicapped children. CDF works through litigation, public education, analysis of public policy and other methods to improve the care and development of children and their economic status. Experience in such work demonstrates that special limitations on the right of children born out of wedlock to establish child support obligations, such as the Pennsylvania statute at issue, have a host of grave social and economic consequences for such children. (*See, e.g., Trimble v. Gordon*, 430 U.S. 762 (1977) (state gave no right to intestate succession); *New Jersey Welfare Rights Organization v. Cahill*, 411 U.S. 619 (1973) (state gave no right to welfare to some children born out of wedlock). *See also* Marcus, *Equal Protection: The Custody of the Illegiti-*

mate Child, 11 J. Fam. L. 1, 17-18 (1971) (alienation of such children).)

Delco. C.A.P.S. Inc. was formed by persons not receiving their child support through Delaware County (Pa.) Domestic Relations. At that time, the organization was basically a support group. When meetings became more frequent, to monthly, the organization also began to provide educational programs, self-help guidance, court accompaniment, referrals and court monitoring. We began advocacy work by contacting judges, D.R.O. staff and elected officials to suggest and support proposed changes to improve child support enforcement, visitation problems, resolution of such, court forms and procedures and child support determinations. We plan to continue all of these activities. As well, we want to become an officially recognized and fully involved part of the domestic relations office, perhaps in a citizen's advisory capacity as court monitors and as liaisons between the courts and the litigants. We will be one year old in March of 1988. There are roughly 200 members from cases twenty years old to new cases filing for support, from declaration of paternity through the support court and custody as well as visitation.

Equal Rights Advocates is a San Francisco-based non-profit legal and education corporation dedicated to enforcing and promoting equal rights under the law for women. ERA has a long history of activism in the courts and community on issues that affect women's ability to support themselves and their families. ERA is particularly concerned that inability to obtain child support benefits for children born out of wedlock will further accelerate the feminization of poverty.

The National Child Support Enforcement Association is a non-profit national membership organization of child support professionals working to increase the nation's awareness of families in need of support enforcement. Members include judges, court masters, administrative

hearing officers, attorneys, representatives of parent advocacy groups, state and local program administrators and workers, family support councils, members of state child support enforcement commissions, private corporations, and others. Dedicated to promoting and protecting the well-being of children and their families by improving the efficient and effective enforcement of support, NCSEA is a voice for child support professionals at all levels of government and from all 50 states. NCSEA is concerned with implementing and improving laws, policies, and practices for securing adequate support for children.

The National Organization for the Enforcement of Child Support, Inc. (OECS) was founded in 1979 to educate its constituents, the judiciary, the legislatures, and the general public about the problems of child support enforcement, and to seek solutions to those problems. It is now an internationally recognized group, operating from headquarters in Maryland. OECS has given assistance to approximately 50,000 people internationally, and has responded to inquiries from two foreign governments. The organization's interest in the issue of paternity establishment stems from the premise that a child is a product of two parents. This fact is irrefutable—without regard to the child's age or the length of time which elapsed sans support. The genes of both parents are present in this new entity. The fact that an arbitrary time limit has been set on the legal establishment of the origins of these genes is a violation of the birthright of every child ever born.

The National Organization for Women (NOW), which was founded in 1966, is the largest feminist organization in the United States, with a membership of over 160,000 women and men in more than 750 chapters throughout the country. Since its beginning, NOW has been dedicated to the advancement of the rights and interests of women in American society, and has partici-

pated across the nation in court litigation and in legislative efforts to achieve equal rights and fair treatment for women. NOW has a special interest in and familiarity with the issues raised by this case, having worked for passage of the Child Support Amendments and for fair and equitable state-by-state enforcement of that law.

The NOW Legal Defense and Education Fund ("NOW LDEF") is a not-for-profit civil rights organization that performs a broad range of legal and educational services in support of women's efforts to eliminate sex-based discrimination and secure equal rights. NOW LDEF was founded in 1970 by Leaders of the National Organization for Women, a membership organization of over 170,000 women and men in more than 725 chapters throughout the country. Family law, and, in particular, the economic rights of women in the family sphere are a major focus of NOW LDEF's work. The organization has filed amicus curiae briefs on family law issues in numerous cases in state and federal courts. Cases in which NOW LDEF has filed amicus curiae briefs before this Court include: *Hisquierdo v. Hisquierdo*, 439 U.S. 572 (1979) and *McCarty v. McCarty*, 453 U.S. 210 (1981). NOW LDEF has recently completed and presented to Congress a study of the implementation by the states of the Child Support Enforcement Amendment of 1984, and an important finding of the study is that one of the most difficult areas of enforcement is the establishment of paternity.

The National Women's Law Center ("NWLC") is a national legal organization that works to advance and protect women's rights, primarily through litigation, advocacy, research, and public education. NWLC's efforts are concentrated in areas of central concern to women, including employment, education, income security and family support, with special attention given in all areas as to how poor women are affected. NWLC has worked for several years to improve laws and procedures for the

establishment of paternity and enforcement of child support. Laws that limit the right of children born out of wedlock to establish child support obligations, such as the Pennsylvania statute at issue here, are of particular concern to NWLC because of their detrimental effect on the efforts of women and children to obtain much-needed child support payments.

Need for Support Enforcement was founded in 1982 to help custodial parents collect child support; to act as an informational resource center to identify information and individuals that will help our members make better use of support enforcement agencies; and to seek improvements in the collection system through improved legislation and enforcement of existing and future laws. N. for S.E. has chapters in western Washington with a membership of over 1,000 members. We have several members involved in paternity cases.

Single Parents United 'N' Kids is a non-profit organization founded in May of 1982 and is comprised of men and women concerned with child support enforcement. We help approximately 2,000 to 3,000 people per year with child support problems. The purpose of Single Parents United 'N' Kids is to inform and educate custodial parents of their rights, including existing and new laws, and to bring knowledge of the problem to the public's attention, while attempting to reinforce existing child support laws. About one fourth of the people who contact us have paternity problems. Many of the mothers are not aware that they have to do something to legally establish paternity; do not have money to hire an attorney if they do know; or have had cases through their local Child Support offices for years with nothing being done on behalf of the child to establish paternity. In summary many times if there is no paternity action taken it is not the fault of the mother. We believe it is important that all children be entitled to establishment of paternity up to age 18 regardless of when their case was

filed and that any statute of limitations violates the equal protection and due process clauses of the U.S. Constitution.

The Second Husbands Alliance For Fair Treatment (SHAFFT) was established in 1986 as a stepfathers' organization to assist and educate its constituency and the general public in the problems arising from non-support of children. Based in Maryland, there are members in several states. SHAFFT is presently studying existing laws to evaluate the rights of children in step-household situations. Many of these children are non-marital, with no paternity established. These children find it impossible to get support from their biological male parents. Also, this status presents difficulties in adoption procedures. Placing a time limit on establishing paternity compounds these difficulties and allows irresponsible fathers to legally shirk their moral duty. This limit, however, does not negate the biological fact of fatherhood. That does not change in the lifetime of the parent or the child. Neither does the parental obligation which is the birthright of every child.

SUPPORT is a non-legal court-approved program that assists clients with issues of child support and custody. SUPPORT has followed the Clark-Jeter Case closely since it originated in Allegheny County. Last year we entered a Friend of the Court brief as this case progressed to our Supreme Court. Our concern is the non-retroactivity of filing and how this will affect many children, not just financially but in other ways such as concerning knowledge of their heredity. Everyone has a right to know about such factors as diseases that run in the family. This case will affect many people, and I feel that our courts erred grossly in this decision.

The Women's Law Project is a Pennsylvania-based, non-profit law firm, dedicated to advancing the status and opportunities of women through litigation, public education, research, and individual counseling. Together

with Women in Transition, a social service agency focusing on the needs of women, the Women's Law Project is engaged in the Philadelphia Child Support Project, whose goal is to increase, through direct service and advocacy, the number of Philadelphia children receiving adequate and consistent child support. We believe that the opinion of the Pennsylvania court in this case creates an arbitrary distinction between classes of children equally in need of support, and would undermine the efforts of the Philadelphia Child Support Project to ensure that children in single-parent families receive adequate support.